

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0345-MLM-E TCEQ ID: RN105133342 CASE NO.: 32805

RESPONDENT NAME: CO2 CLEANING SERVICES, INC.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 2339 West U.S. Highway 380, Bridgeport, Wise County

TYPE OF OPERATION: Cleaning and demolition service

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 4, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Anna Cox, Litigation Division, MC 175, (512) 239-0974

Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Colin Barth, Waste Enforcement Section, MC 128, (512) 239-0086

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Ms. Mca Jean Holland-Gholson, Registered Agent, CO2 Cleaning Services, Inc., 2339 West Highway 380, Bridgeport, Texas 76426

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: December 27, 2006</p> <p>Date of NOV Relating to this Case: January 9, 2007</p> <p>Background Facts:</p> <p>The EDPRP was filed and mailed on July 10, 2007. The Respondent failed to answer.</p> <p>MLM:</p> <p>1. Failed to dispose of municipal solid waste at an authorized facility. Approximately 100 cubic yards of municipal solid waste including concrete, metal, wood, and clothing scraps were disposed at the Site [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2. Failed to comply with the prohibition on outdoor burning and to prevent discharge of air contaminants which cause or have the tendency to cause a traffic hazard or interference with normal road use. Municipal solid waste including construction and demolition debris and household waste had been burned at the Site [30 TEX. ADMIN. CODE §§ 111.201 and 101.5 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,000</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$2,000</p> <p>This is a Default Order. The Respondent has not paid any of the assessed penalty but shall be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease unauthorized burning and accepting additional waste at the Site. 2. Within 30 days, remove all waste including concrete, metal, wood and clothing scraps and dispose of the waste at an authorized Facility. 3. Within 45 days, submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance.



Penalty Calculation Worksheet (PCW)

DATES	Assigned	22-Jan-2007	Screening	25-Feb-2007	EPA Due	
	PCW	24-May-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	CO2 Cleaning Services, Inc.		
Reg. Ent. Ref. No.	RN105133342		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32805	No. of Violations	2	
Docket No.	2007-0345-MLM-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Colin Barth	
Multi-Media	Air Quality	EC's Team	EnforcementTeam 8	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
---------------------------	----------------	--------------------------------	-----

Notes: The respondent has no record of any previous NOV's or Orders at this site in the past five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
--------------------	----	----------------	-------------------	-----

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
------------------------------------	--------------	-------------------	-----

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The respondent does not meet the good faith criteria.

Total EB Amounts	\$989	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$1,900	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,000
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
---	--	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$2,000
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,000
-----------------------------------	-------------------------------	---------

DEFERRAL		Reduction	Adjustment	\$0
-----------------	--	-----------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral due to non-settlement.

PAYABLE PENALTY	\$2,000
------------------------	---------

Screening Date 25-Feb-2007

Docket No. 2007-0345-MLM-E

PCW

Respondent CO2 Cleaning Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32805

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105133342

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The respondent has no record of any previous NOVs or Orders at this site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 25-Feb-2007

Docket No. 2007-0345-MLM-E

PCW

Respondent CO2 Cleaning Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32805

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105133342

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

mark only one with an x

Violation Base Penalty

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent CO2 Cleaning Services, Inc.

Case ID No. 32805

Reg. Ent. Reference No. RN105133342

Media Municipal Solid Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$950	27-Dec-2006	26-Oct-2007	0.8	\$39	n/a	\$39
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of approximately 50 cubic yards of unburned waste which remains on-site at \$13 dollars a cubic yard from the investigation date to the estimated date of compliance. Additionally, the cost includes \$300 for loading and transporting the waste to a permitted municipal solid waste landfill.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$950

TOTAL

\$39

Screening Date 25-Feb-2007

Docket No. 2007-0345-MLM-E

PCW

Respondent CO2 Cleaning Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32805

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105133342

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 111.201 and 101.5 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the prohibition on outdoor burning and to prevent the discharge of air contaminants which cause or have the tendency to cause a traffic hazard or interference with normal road use, as documented during an investigation conducted on December 27, 2006. Specifically, it was noted that municipal solid waste including construction and demolition debris (C&D) and household waste had been burned at the site on December 9, 2006 which caused a traffic hazard on US Highway 380.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

60 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$950

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent CO2 Cleaning Services, Inc.
Case ID No. 32805
Reg. Ent. Reference No. RN105133342
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$950	9-Dec-2006	9-Dec-2006	0.0	\$0	\$950	\$950
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to remove and properly dispose of approximately 50 cubic yards of waste that was burned on-site at \$13 per cubic yard. Additionally, the cost includes \$300 for loading and transporting the waste to a permitted municipal solid waste landfill.

Approx. Cost of Compliance

\$950

TOTAL

\$950

Compliance History

Customer/Respondent/Owner-Operator: CN603135849 Bill Gholson Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105133342 CO2 CLEANING SERVICES, INC. Classification: AVERAGE BY Site Rating: 3.01
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455040176
Location: 2339 W US HWY 380, BRIDGEPORT, TX, 76426 Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: February 23, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 23, 2002 to February 23, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Colin Barth Phone: 512 239 0886

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CO2 CLEANING SERVICES, INC.;
RN105133342

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-0345-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is CO2 Cleaning Services, Inc. ("CO2").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. CO2 owns and operates a cleaning and demolition service located at 2339 West U.S. Highway 380, Bridgeport, Wise County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Site involves the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on December 27, 2006, a TCEQ Dallas/Fort Worth Regional Office investigator documented that CO2:
 - a. Failed to dispose of municipal solid waste at an authorized facility. Approximately 100 cubic yards of municipal solid waste including concrete, metal, wood, and clothing scraps were disposed at the Site; and
 - b. Failed to comply with the prohibition on outdoor burning and to prevent discharge of air contaminants which cause or have the tendency to cause a traffic hazard or interference with normal road use. Municipal solid waste including construction and

demolition debris ("C&D") and household waste had been burned at the Site on December 9, 2006, which caused a traffic hazard on U.S. Highway 380.

4. CO2 received notice of the violations on or about January 9, 2007.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of CO2 Cleaning Services, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on July 10, 2007.
6. By letter dated July 10, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served CO2 with notice of the EDPRP. According to the return receipt "green card," CO2 received notice of the EDPRP on July 12, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since CO2 received notice of the EDPRP, provided by the Executive Director. CO2 failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, CO2 is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., CO2 failed to dispose of municipal solid waste at an authorized facility. Approximately 100 cubic yards of municipal solid waste including concrete, metal, wood, and clothing scraps were disposed at the Site, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Finding of Fact No. 3.b., CO2 failed to comply with the prohibition on outdoor burning and to prevent discharge of air contaminants which cause or have the tendency to cause a traffic hazard or interference with normal road use. Municipal solid waste including construction and demolition debris ("C&D") and household waste had been burned at the Site on December 9, 2006, which caused a traffic hazard on U.S. Highway 380, in violation of 30 TEX. ADMIN. CODE §§ 111.201, and 101.5, and TEX. HEALTH & SAFETY CODE § 382.085(b).

4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served CO2 with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 7, CO2 failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against CO2 and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against CO2 for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand dollars (\$2,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. CO2 is assessed an administrative penalty in the amount of two thousand dollars (\$2,000.00) for violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the TCEQ. The payment of this administrative penalty and CO2's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: CO2 Cleaning Services, Inc.; Docket No. 2007-0345-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. CO2 shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, CO2 shall cease unauthorized burning and accepting additional waste at the Site.
 - b. Within 30 days after the effective date of this Order, CO2 shall remove all waste including concrete, metal, wood, and clothing scraps and dispose of the waste at an authorized facility.
 - c. Within 45 days after the effective date of this Order, CO2 shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with ordering provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

CO2 shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

and

Alyssa Taylor, Air Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon CO2. CO2 is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If CO2 fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, CO2's failure to comply is not a violation of this Order. CO2 shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. CO2 shall notify the Executive Director within seven days after CO2 becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by CO2 shall be made in writing to the Executive Director. Extensions are not effective until CO2 receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to CO2 if the Executive Director determines that CO2 has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ANNA M. COX

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Anna M. Cox. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of CO2 Cleaning Services, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 10, 2007.

The EDPRP was mailed to CO2 at its last known address on July 10, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” CO2 received notice of the EDPRP on July 12, 2007, as evidenced by the signature on the card.

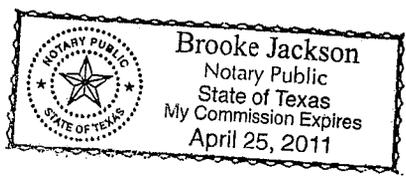
More than 20 days have elapsed since CO2 received notice of the EDPRP. CO2 failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

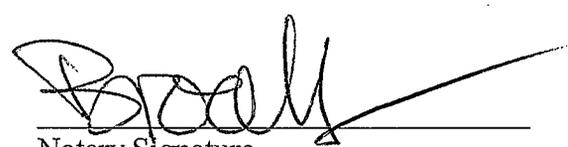


Anna M. Cox, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Cox, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 30th day of October, A.D., 2007.





Notary Signature